

PLANNING COMMISSION
August 13, 2018

The City of Jackson Planning and Zoning Commission met in regular session in the Council Chambers of the Jackson City Hall at 5:15 p.m. on August 13, 2018 with the following Commission members present: Dennis Hample, Dave Lappe and Robert Dorschner. Also attending was Chuck Dunker, Michelle Scheepstra, Rick Burud, Cheri Gilbert, Dennis Henrichs, Dave Hargan, Joan Hargan and City Zoning Administrator Dave Maschoff. (Planning Commission members Chairman Randy Ringquist, Beau Johnson, Tim Beck and Donnie Schoenrock were absent.) (A quorum of the Planning Commission was not present.)

CALL THE MEETING TO ORDER

In the absence of Chairman Randy Ringquist, City Zoning Administrator Dave Maschoff welcomed everyone attending and called the August 13th, 2018 regular meeting of the Planning and Zoning Commission to order. Maschoff noted the lack of a quorum at the start of the meeting and said he would first move to the discussion items on the agenda.

DISCUSSION ITEM – RICK BURUD WOULD LIKE TO DISCUSS AN ISSUE ABOUT HIS PROPOSAL TO CONSTRUCT A GARAGE ON A LOT HE OWNS ACROSS THE STREET FROM HIM ON LOUIS AVENUE

Maschoff asked Rick Burud to explain to the Planning Commission what he would like to do.

Burud said he would like to build a storage shed on the vacant lot that he owns across the street from his residence. Burud said he talked to Maschoff who informed him that the lots have to be joined together. Burud said he was informed that, according to City Code, storage sheds or accessory buildings cannot be constructed on an empty lot without a residence located on it.

Burud said he went to the County and they joined the two lots from a real estate standpoint making it one tax parcel. He explained he did that so hopefully he could build a storage shed on the lot across the street. He noted there's a portable storage shed currently on the lot. Burud said it was a tax forfeited lot and described the lot to the Planning Commission members.

Hample asked Burud if his proposed storage shed would be similar to his neighbor's.

Burud said it would be and referred to pictures of the lot that were given to Maschoff and copies distributed to the Planning Commission members. He noted where the proposed storage shed would be located. Burud said he was told when he joined the two lots as one tax parcel that it would then have to be sold as one lot in the future.

Planning Commission members reviewed the pictures submitted by Burud.

Maschoff noted in Burud's neighbor's situation, both lots were side and side and combined into one lot. He said Burud's proposal is unique because the two lots are separated by a City street.

Maschoff said he contacted the League of Minnesota Cities about the matter to gather information. Maschoff read the response he received from the League of Minnesota Cities. It said: *Thank you for contacting the League with your question regarding a lot having an accessory building without a principal structure. The City's definition of a lot in its zoning ordinance controls here. Just because the County may have combined the parcels for tax purposes does not mean that the City must treat the two parcels as one lot. The County may have different standards for combining parcels that the City would have. For zoning purposes, the City Code is what controls. If this gentleman's property does not meet the definition of one lot under the City Code, the City could properly reject his request to build an accessory structure on the empty lot. So to answer your questions, you are correct, the County's determination that the properties are one tax parcel does not circumvent the City Code that would not define them as one lot.* Maschoff said that's the information he received from the League of Minnesota Cities.

Maschoff said he also contacted former City Clerk and City Zoning Administrator Steve Walker to get historical perspective on whether anything like this has been done before. He noted Walker had been Zoning Administrator for 20 years. Maschoff read Walker's response. He read *Yeah, that's a tough question. In my 20 years with the City, I recall only a couple such requests, and they involved the requirement of having their adjoining lots combined as one parcel. I would have a problem allowing this building request if on a non-contiguous lot. With the County's approach, one could request to build an accessory building on an empty lot owned on the other side of town. In that case, the precedence would be set in allowing sheds/garages on almost any empty lot in town – when the one requesting the building owns property elsewhere in town – which is not favorable to the City and its citizens as a whole. I just now see the reply from the League, and agree. If not clear in the City Code, the Commission needs to decide the definition of a lot, and consider the precedence which will be established per their decision.*

Maschoff said he understands in past years, there have been similar requests about building an accessory building on a lot owned by someone whose main residence was located across the street. He said in those cases, it wasn't allowed. Maschoff asked what the thoughts were of the Planning Commission members.

Lappe said if Burud's request is granted, it will open up a can of worms. He noted other people with similar requests have been turned down in the past. Lappe said if the lots were located side-by-side he wouldn't have any problem with the request. But, Lappe said when you have a street running between the lots, you basically have two lots. Lappe said what the County says regarding the lots is one thing, but to him it's two lots. He said he would have to vote against the request if it ever came before the Planning Commission for a vote.

Hample said personally he doesn't have a problem with Burud's request. He said that's just his opinion.

Lappe noted the problem is that others with similar requests in the past have been turned down.

Maschoff said if Burud's proposed building would include living quarters, it would fall within the City Code.

Burud said not being allowed to build an accessory building on the lot across the street from his residence basically renders the lot useless.

Maschoff asked Burud if his lot is big enough that if he ever wanted to sell it someone could use it to build a house on.

Burud explained it's large enough, but you have kind of a tough situation with the apartment complex right behind the lot so the backyard of a house would face the apartments. He also noted there's a foreclosed house next door so you really don't have the most ideal place to put a house. Burud said it would have to be a smaller house on that lot.

Maschoff said the only other thing would be if the Planning Commission wanted to amend the current ordinance to allow such a request as Burud's.

Dorschner said he has no objection to Burud's request in order to help in reviving downtown.

Hample said if the City Code was amended, you'd have to go back and allow those that had similar requests denied in the past to have the opportunity to again request building an accessory building on an empty lot if they still want to do it. Hample said to him on paper it makes sense to do what Burud is requesting, but the City Code says "no" you can't.

Maschoff said Burud could approach the City Council about his request.

Burud asked what the definition of contiguous is in the City Code. He said the real question is if the lots are across the street, are they contiguous or not. Burud said he would like to know what the City Code says.

Maschoff said he can contact the City Attorney and try to get more of a definition. Maschoff read from City Code (153.005) the definition of **Accessory Buildings**. It reads: *A subordinate building or portion of the main building which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building.* Maschoff said if you have a house and build a garage on the same lot, then naturally the garage would be for whoever is living in that house.

Maschoff said he can contact the City Attorney to see about a more definite definition.

DISCUSSION ITEM – CHERI GILBERT TO TALK ABOUT ZONING REGULATIONS

Maschoff welcomed Cheri Gilbert to the meeting.

Gilbert explained she has a neighbor to the south of her property and there are issues.

Gilbert said the neighbor installed a fence that looks like something you would put in a cattle yard. She said it's constructed of scrap pine. Gilbert said when the fence was first erected; the bad side of the fence was put towards her and the good side towards them. She said they were told they had to change the direction of the fence. Gilbert said the fence was slapped up and it wasn't lined up. She said she has pictures of it. Gilbert said the boards aren't lined up and don't cover the posts. She said the posts are old posts that are all split and have pieces of metal in them.

Gilbert explained they are dealing with a 1938 property and said back in those days they did put buildings and houses on the lot line. She said when they did the survey they found out that was the case. Gilbert said this fence has been slapped basically right up against her garage. She said she has about eight inches to try and get through there to maintain the brick wall or to do any painting or anything like that.

Gilbert said she asked her neighbors not to put in the last section of fence which would go along the brick wall of her garage and they said "no". Gilbert said she thinks it's unreasonable that she can't maintain that part of her property. Gilbert said she also doesn't think she should really have to look at that fence.

Gilbert told the Planning Commission she don't understand why there isn't something in the zoning code that says you have to submit what kind of fence you are putting up. She said this is a perfect example of junk.

Gilbert said the fence goes alongside her garage for a while and then it's about eight feet from her living room windows to the south so it's dark in her living room now. She said her neighbors had plenty of room to put the fence anywhere.

Hample asked if her neighbors said why they needed a fence.

Gilbert said the neighbors want privacy. She said they think everyone is stalking them in the neighborhood, but that's their mentality, everyone's stalking.

Gilbert said she tried to take pictures of this big shed they're building which is four feet from the lot line. Gilbert said she doesn't know how the overhang figures into that, but the overhang looks like it's more than a foot to her. She said the building is right on the four foot setback.

Gilbert said the neighbors are putting air conditioning and heat into the building. She said she thinks somebody is going to actually live there. Gilbert said she doesn't know about the water and sewer.

So besides the fence, Gilbert said she has this straight up wall that goes straight up, she didn't know how many feet outside her living room window. She said there's plenty of room to put this shed in the back yard but they insisted on putting this on what looks like almost the front side yard.

Gilbert said she has a real concern. She said one of her neighbors was on vacation and the other neighbor didn't want to attend the Planning Commission meeting alone because her husband couldn't come with her. Gilbert said everybody is concerned about property values. She said they have always had a nice neighborhood and now it looks like a slum. Gilbert said everything to the south of her looks like a slum.

Gilbert said if the zoning laws are that loose that can happen, there's nothing to do, but I think somebody needs to take a look at it.

Gilbert said there's also another issue. She said in the survey, her neighbors gained eight feet of her driveway and so now they're parking right next to her garage. She said the neighbors dug out a section of it mostly to park half on the grass and half on material they put down. Gilbert explained the neighbors put down used asphalt, sprinkled that on there. She said it looks bad because it's a driveway going nowhere. Gilbert said the driveway is not going to a garage or anything. She said it looks like they're parking on the grass when you drive by. Gilbert said if that would have been a garage that they put in and they pulled up to the garage that would have made a little more sense.

Gilbert said it just seems that everything is to try and make everything look as bad as possible. Gilbert said she has worked for almost 16 years on her property.

Planning Commission members reviewed the pictures submitted by Gilbert of the fence and the view from her property.

Hample said he agrees about the fence being that close to Gilbert's wall, that's not realistic at all. He said it gives Gilbert no room whatsoever.

Henrichs commented it's not a fence, it's just slats and the slats are horrible. He said the slats are warping.

Maschoff said some cities have ordinances where a fence has to be two or three feet from the property line, or in some cases, the fence can be up to the property line if the person putting up the fence has a notarized letter from the neighbor. He said doesn't know the history of why Jackson's ordinance is written where you are allowed to have the fence up to the property line. Maschoff said maybe that's something the City of Jackson needs to talk about.

Maschoff said what he was told when he first became City Clerk/Zoning Administrator is that if the fence is two feet back from the property line, then there's a no-man's land. However, Maschoff said if the fence was two feet back from the property line, it would allow the person with the fence room to maintain it without being on somebody else's property.

Lappe asked what the setback requirement is for a house from the property line.

Maschoff said for example if you were adding on a bedroom to a house, the setback would be 10 feet from the property line. He said the setback for a detached garage would be four feet from the property line.

Planning Commission members reviewed pictures of the property and the fence.

Gilbert said the boards on the fence are flip-flopped every other board and don't match up.

Lappe asked if the overhang of the roof of the accessory building would have to be four feet from the property line since the overhang is part of the building.

Gilbert claimed the overhang looks like it's a couple feet and that's not right regarding setback from the property line.

Lappe said the building inspector will need to look at it.

Hample asked what the original building permit was for.

Maschoff said it was originally a building permit for a 288 square foot building/shed and it was reduced to 200 square feet.

Lappe noted that at 200 square feet, a building permit was not required. He said that law had been changed.

Maschoff said a building permit is not required for an accessory building that's 200 square feet or less. He said that changed from 120 square feet to 200 square feet or less.

Gilbert said she doesn't think sheds should be allowed on the side yard. She said there's plenty of room in the backyard.

Lappe asked if anyone knows for certain what the shed is for.

Gilbert said she understands it's apparently going to be used as a writer's studio. She said she didn't know.

Lappe said as it stands right now, everything is within what the Code says so the Planning Commission's hands are tied. He said the Building Inspector needs to take a look at the overhang of the shed.

Maschoff said he would have the Building Inspector take a look at the shed.

Hample said he still thinks there needs to be something done with that fence. He said it's just not right that it's that close.

Lappe said he understands that, but the Planning Commission's position is that it's within the Code so if Gilbert wants to do something with the fence, then it becomes a civil issue.

Gilbert asked about the eight foot section of the fence where she's not allowed to maintain her property. She said she was referring to the eight foot section that's along her garage.

Maschoff said the Code says a fence can be up to the lot line as long as it doesn't cause damage to the neighboring property. He said he doesn't know if that would also include maintenance.

Lappe suggested having Maschoff talk to the City Attorney and give the Planning Commission his thoughts on the issue.

Maschoff said he talked with the City Attorney about it and will talk with the City Attorney about it again.

Dorschner inquired whether there is a law regarding blocking light or obstructing a view.

Henrichs suggested also having the building inspector look at the thickness of the plywood for the roof. He said he doesn't think it's the thickness that it's supposed to be for the roof or the sides.

Dave Hargan suggested also having the building inspector look if there are proper footings or the shed is properly secured.

Maschoff said he would talk to the building inspector.

Lappe said Maschoff needs to talk to the building inspector and have him look at the accessory building and also talk to the City Attorney regarding the fence.

Henrichs said moving forward, should Jackson's standards be raised? He said can we do something as a community to resolve these kinds of things? Henrichs said the Planning Commission is accountable for what goes forward in his opinion. He suggested that the City needs to be willing to make changes in codes to tighten them up. Henrichs said he's lived in eight different cities across America and you couldn't put up that kind of shack on a property anyway, anyhow and allow it to happen. He said if the codes are that bad for Jackson, let's get them right.

Lappe said he has no problem taking a look at the codes. He said right now the Planning Commission has to go by the current codes.

Lappe said the building inspector will look at the accessory shed and the City Attorney will be contacted regarding the fence.

Gilbert, Henrichs and those present were thanked for attending the meeting.

PUBLIC HEARING ON THE VARIANCE APPLICATION OF CHUCK DUNKER OF JACKSON WHO PROPOSES TO ERECT A 40 FOOT BY 60 FOOT POLE SHED ON HIS PROPERTY AT 512 SOUTH HIGHWAY, WHICH IS ZONED SERVICE BUSINESS. DUNKER IS SEEKING A VARIANCE FOR A 15 FOOT SETBACK FROM THE REAR PROPERTY LINE WHICH IS ADJACENT TO A RESIDENTIALLY (R-2) ZONED DISTRICT. CITY CODE 153.042 REQUIRES A MINIMUM REAR YARD SETBACK OF 20 PERCENT OF THE LOT DEPTH OR FEET FROM ADJOINING OR ACROSS THE STREET FROM ANY RESIDENTIALLY ZONED DISTRICT.

Lappe suggested to Dunker that for his sake and adjacent property owners that he have the property surveyed to determine where the property line is. Once the property line has been established, Lappe said he has no problem with Dunker's proposed building.

Dunker said the property is surveyed between him and Dave Stubbe.

Lappe noted the only question adjacent property owner Todd Asa had was where the property line was.

Maschoff said Todd Asa sent a letter that stated he didn't have any problem with Dunker's proposed building, but wanted to have the north property line verified.

Dunker said he was going to have the property surveyed to verify the property line.

PUBLIC HEARING ON THE CONDITIONAL/INTERIM USE PERMIT APPLICATION OF MICHELLE SHEEPSTRA TO ALLOW FOR THE OPERATION OF AN AIRBNB IN A RESIDENTIAL ZONE (R-2) LOCATED AT 108 SHADY LANE IN JACKSON, MINNESOTA. ACCORDING TO THE CITY'S LAND USE CHART, BED AND BREAKFAST RESIDENCES REQUIRE A CONDITIONAL/INTERIM USE PERMIT TO OPERATE IN RESIDENTIAL ZONES OF THE CITY.

Michelle Sheepstra was present to answer any questions regarding her Airbnb located at 108 Shady Lane.

PUBLIC HEARING ON THE CONDITIONAL/INTERIM USE PERMIT APPLICATION OF DAVID AND LISA BAUSICK TO ALLOW FOR THE OPERATION OF AN AIRBNB IN A RESIDENTIAL ZONE (R-2) LOCATED AT 110 BRYON ROAD IN JACKSON, MINNESOTA. ACCORDING TO THE CITY'S LAND USE CHART, BED AND BREAKFAST RESIDENCES REQUIRE A CONDITIONAL/INTERIM USE PERMIT TO OPERATE IN RESIDENTIAL ZONES OF THE CITY.

David and Lisa Bausick were not present at the meeting.

CONTINUATION OF THE MEETING TO MONDAY, AUGUST 20, 2018 AT 5:15 P.M. AT THE JACKSON CITY HALL

Due to a lack of a quorum to take a vote on Chuck Dunker's variance application and Michelle Sheepstra's and David and Lisa Bausick's Conditional/Interim Use Permits, Maschoff continued the August 13th meeting to August 20th, 2018 at 5:15 p.m. at the Jackson City Hall.

AUGUST 20TH, 2018 - CONTINUATION OF AUGUST 13TH PLANNING AND ZONING COMMISSION MEETING

The Jackson Planning and Zoning Commission met at 5:15 p.m. on Monday, August 20, 2018 in the Council Chambers of the Jackson City Hall to continue the meeting that began on August 13, 2018. Those attending included Chairman Randy Ringquist, Tim Beck, Dennis Hample, Dave Lappe and Robert Dorschner. Also attending was City Zoning Administrator Dave Maschoff, Michelle Sheepstra and Chuck Dunker.

(A quorum of the Planning Commission was present.) (Planning Commission members Beau Johnson and Donnie Schoenrock were absent.)

CALL THE CONTINUED MEETING TO ORDER

Planning Commission Chairman Randy Ringquist called the continued August 13th, 2018 meeting to order.

Ringquist noted discussion was held at the August 13th meeting regarding the variance application of Chuck Dunker and the Conditional/Interim Use Permit applications of Michelle Sheepstra and David and Lisa Bausick. Ringquist noted he would not make any comments regarding the action on Dunker's Variance Application and Sheepstra's Conditional/Interim Use Permit due to a conflict of interest.

CONDITIONAL/INTERIM USE PERMIT APPLICATION FOR DAVID AND LISA BAUSICK TO ALLOW FOR THE OPERATION OF AN AIRBNB IN A RESIDENTIAL ZONE (R-2) LOCATED AT 110 BRYON ROAD IN JACKSON, MINNESOTA. ACCORDING TO THE CITY'S LAND USE CHART, BED AND BREAKFAST RESIDENCES REQUIRE A CONDITIONAL/INTERIM USE PERMIT TO OPERATE IN RESIDENTIAL ZONES OF THE CITY.

Ringquist asked for a motion regarding the Conditional/Interim Use Permit for David and Lisa Bausick to allow for the operation of an Airbnb at 110 Bryon Road in Jackson. Ringquist said he supported the permit application.

LAPPE/HAMPLE moved and it was unanimously carried to recommend to the City Council to approve the Conditional/Interim Use Permit application of David and Lisa Bausick to allow for the operation of an Airbnb in a residential zone (R-2) located at 110 Bryon Road in Jackson.

Ringquist said due to a conflict of interest on the remaining two issues to be voted on by the Planning Commission, he was going to recuse himself due to a conflict of interest and turned the meeting over to City Zoning Administrator Maschoff.

CONDITIONAL/INTERIM USE PERMIT APPLICATION OF MICHELLE SHEEPSTRA TO ALLOW FOR THE OPERATION OF AN AIRBNB IN A RESIDENTIAL ZONE (R-2) LOCATED AT 108 SHADY LANE IN JACKSON, MINNESOTA. ACCORDING TO THE CITY'S LAND USE CHART, BED AND BREAKFAST RESIDENCES REQUIRE A CONDITIONAL/INTERIM USE PERMIT TO OPERATE IN RESIDENTIAL ZONES OF THE CITY.

Maschoff noted Michelle Sheepstra was in attendance at the meeting. He said notices of the public hearing for Sheepstra's Conditional/Interim Use Permit application were sent to adjacent property owners, published in the Jackson County Pilot and posted at City Hall and the Library. He said no comments were received whatsoever. Maschoff asked if there was any further discussion.

LAPPE/HAMPLE moved and it was unanimously carried to recommend to the City Council to approve the Conditional/Interim Use Permit application of Michelle Sheepstra to allow for the operation of an Airbnb in a residential zone (R-2) located at 108 Shady Lane in Jackson.

VARIANCE APPLICATION OF CHUCK DUNKER OF JACKSON WHO PROPOSED TO ERECT A 40 FOOT BY 60 FOOT POLE SHED ON HIS PROPERTY AT 512 SOUTH HIGHWAY, WHICH IS ZONED SERVICE BUSINESS. DUNKER IS SEEKING A VARIANCE FOR A 15 FOOT SETBACK FROM THE REAR PROPERTY LINE WHICH IS ADJACENT TO A RESIDENTIALLY (R-2) ZONED DISTRICT. CITY CODE 153.042 REQUIRES A MINIMUM REAR YARD SETBACK OF 20 PERCENT OF THE LOT DEPTH OR FEET FROM ADJOINING OR ACROSS THE STREET FROM ANY RESIDENTIALLY ZONED DISTRICT.

Maschoff noted Chuck Dunker was in attendance at the meeting. He said discussion was held regarding Dunker's application during the August 13th meeting. Maschoff said notices of the public hearing had been sent to adjacent property owners, published in the Jackson County Pilot and posted at City Hall and the Library.

Maschoff noted there was a letter submitted by adjacent property owner Todd Asa who was not against Dunker's proposed building, but wanted to make sure that before any construction is done that it's known where the property line is located. Maschoff said Dunker is aware of Asa's request and the process of having the property surveyed to determine the property line is already underway.

LAPPE/DORSCHNER moved and it was unanimously carried to approve the Variance Application of Chuck Dunker to erect a 40 foot by 60 foot pole shed on his property at 512 South Highway, which is zoned Service Business, contingent that a survey is first conducted to determine the north property line.

APPROVE THE JULY 9, 2018 PLANNING AND ZONING COMMISSION MINUTES

Chairman Ringquist asked Commission members if there were any comments, corrections or changes recommended to the July 9, 2018 Planning and Zoning Commission minutes. Hearing none, Ringquist asked for a motion to accept the minutes as drafted.

BECK/LAPPE moved and it was unanimously carried to approve the July 9, 2018 Planning and Zoning Commission minutes as drafted.

ADJOURNMENT

With no further business, LAPPE/HAMPLE moved and it was unanimously carried to adjourn the meeting.

David A. Maschoff, Zoning Administrator

